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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,774	08/25/2006	Ralf Neumann	WK-5391	2467
24956 7590 10/31/2008 MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314				
EXAMINER PARSLEY, DAVID J				
ART UNIT		PAPER NUMBER		
3643				
MAIL DATE		DELIVERY MODE		
10/31/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/590,774

Applicant(s)

NEUMANN ET AL.

Examiner

DAVID J. PARSLEY

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 25 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 7-9-08 and this action is final.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the transport plane of the meat" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the free end" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the side of facing the meat" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the area of the cutting element" and "the side" in line 3 and line 9 respectively. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,213,863 to Basile et al.

Referring to claim 1, Basile et al. discloses an apparatus for the automated processing of meat, comprising a transport element for transporting the meat – at 12,78, a cutting element – at 20,22, for cutting and/or trimming the meat, a counter surface - at 56,60, for the cutting element and at least one control and/or regulating apparatus - at 26,64,48,46,42,74, which is functional connection with the cutting element - see figures 1-9, characterized in that arranged in the area of the cutting element is a threading element - see at the bent portion proximate 70 in figure 8, which is bent with respect to the counter surface in the transport plane of the meat – see figure 8.

Referring to claim 2, Basile et al. further discloses the threading element is an integral component of the counter surface - see figure 8.

Referring to claim 3, Basile et al. further discloses the threading element is constructed as an extension of the counter surface – see figure 8.

Referring to claim 4, Basile et al. further discloses the threading element is a spatula-like plate element and has an elongated shape rounded at the free end - proximate 70 - see figure 8 where it is rounded at either free side at the bend.

Referring to claim 5, Basile et al. further discloses the plate element is chamfered at least on the side facing the meat - see at 58 in figures 1-8.

Referring to claim 6, Basile et al. further discloses the counter surface and threading element are swivellable - see at 62,70.

Referring to claim 7, Basile et al. further discloses the counter surface and threading element are swivellable about at least one rotation axis - see at 62,70.

Referring to claim 8, Basile et al. further discloses the counter surface and threading element are movable in a linear direction - see figures 1-8.

Referring to claim 9, Basile et al. further discloses a deflector element - at 22 or 64, is arranged on the side of the counter-surface opposite the threading element - see figures 1-9.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by WO Patent No. 03/037090.

Referring to claim 10, the WIPO discloses a method for the automated processing of meat, comprising the steps of transporting the meat into the are of a cutting element - at 40, running the meat up against a counter surface - forward of 40, before the meat reaches the cutting element - see figures 12 and 14, cutting and or trimming the meat by means of the cutting element - at 40 and removing the meat - see figures 12 and 14, characterized in that the meat is threaded by a threading element - at 62, before running up against the counter surface wherein the meat is at least partially lifted and then guided on to the counter surface - see figures 12 and 14.

Response to Arguments

4. Regarding claims 1-10, the Basile et al. reference US 6213863 discloses the claimed threading element – see the bent portion of item 56 proximate item 70 as seen in figure 8. The device - at 56 is deemed to be similar to applicant's claimed threading element in that as seen in applicant's drawing figures 4-5 the threading element – at 14, is a plate-like element used to facilitate cutting of an animal carcass. The threading element – at 56 of Basile et al. is a plate-like element as seen in figure 8 used to facilitate cutting of an animal carcass – see column 3 lines 5-37. Therefore it is deemed that the Basile et al. reference discloses the claimed threading element.

Regarding claim 10, the WIPO reference WO 03/037090 discloses a counter and threading element – at 62, which is plate-like as seen in figure 14 for facilitating the cutting of an animal carcass - see pages 12-14. Therefore it is deemed that the WIPO reference discloses the claimed threading element.

Conclusion

5. Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PARSLEY whose telephone number is (571)272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Parsley/

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Primary Examiner, Art Unit 3643